



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Mr. Toby L. Mash
McCarty, Wilson & Mash, P.C.
P.O. Box 580
Ennis, Texas 75120

OR94-611

Dear Mr. Mash:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 28022.

The City of Ennis (the "city"), which you represent, has received a request for information relating to job postings for police officer positions. Specifically, the requestor seeks, among other things, job postings, T.C.L.E.O.S.E. license numbers, the home addresses and telephone numbers of any job applicants who were not licensees at the time of application, demographic information about the applicants, the qualifications of the applicants, and the requestor's application file. You advise us that the city has made most of the requested information available to the requestor. You object, however, to releasing the requested names, T.C.L.E.O.S.E. license numbers, and home addresses and telephone numbers.

You seek to withhold the requested names, T.C.L.E.O.S.E. license numbers, and home addresses and telephone numbers in deference to the applicants' privacy interests. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected under the concept of common-law privacy. It protects information if its release would cause an invasion of privacy under the test articulated by the Texas Supreme Court in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under the *Industrial Foundation* case, information may be withheld on common-law privacy grounds only if it is highly intimate or embarrassing and is of no legitimate concern to the public. Generally, the public has a legitimate interest in the job qualifications and performance of public employees. See Open Records Decision No. 470 (1987) at 5. In the past, this office has concluded that the doctrine of common-law privacy does not protect an applicant's or employee's educational training; names and

addresses of former employers; dates of employment, kind of work, salary, and reasons for leaving; names, occupations, addresses and phone numbers of character references; job performance or ability; birth dates; height; weight; marital status; and social security numbers. *See generally* Open Records Decision No. 455 (1987) at 8. Accordingly, common-law privacy does not protect the names, T.C.L.E.O.S.E. license numbers, and home addresses and telephone numbers of the applicants.

We note, however, that section 552.117 of the Government Code may, under certain circumstances, protect the applicants' home addresses and telephone numbers. Section 552.117(1) excepts from required public disclosure information relating to

(1) the home address or home telephone number of:

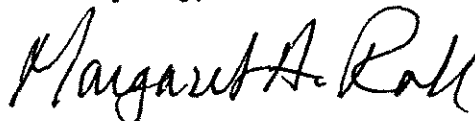
(A) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024; or

(B) a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code; or

As indicated by subsection (1)(B) of section 552.117, article 2.12 of the Code of Criminal Procedure defines "peace officer" in general. To obtain the protection of section 552.117, subsection (1)(A), most public employees must comply with the provisions of section 552.024. No action is necessary, however, on the part of peace officers to obtain the protection of subsection (1)(B). Open Records Decision No. 532 (1989). Furthermore, while subsection (1)(A) does not protect the home addresses and telephone numbers of applicants for public employment, *see* Open Records Decision No. 455, subsection (1)(B) protects the home addresses and telephone numbers of licensed peace officers who apply for peace officer positions, *see* Open Records Decision No. 532. Accordingly, we conclude that the city must withhold the requested home addresses and telephone numbers to the extent that the applicants are licensed peace officers. However, the home addresses and telephone numbers of persons who are not licensed peace officers must be released, as must the remainder of the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 28022

Enclosures: Submitted documents

cc: Mr. John L. Johnson
609 North Gaines Street
Ennis, Texas 75119-3040
(w/o enclosures)